

1 Honorable Benjamin H. Settle
2 Honorable J. Richard Creatura
3
4
5
6
7

8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 DARRICK L. HUNTER,

11 Plaintiff,

12 v.

13 CHARLES N. ROHRER, SERGEANT;
14 AND TIMOTHY J. McCANDLESS,
15 SERGEANT; AND MARGARET
16 GILBERT, SUPERINTENDANT FOR THE
17 WASHINGTON STATE DEPARTMENT
OF CORRECTIONS IN THEIR
INDIVIDUAL AND OFFICIAL
CAPACITIES;

18 Defendants.

Case No. C18-5198-BHS-JRC

FIRST AMENDED COMPLAINT

19 **I. INTRODUCTION**

20 This is a civil rights action authorized under 42 U.S.C., Section 1983 and 42 U.S.C.,
21 Section 2000(e) to redress the deprivation of rights secured by the United States Constitution.

22 **II. JURISDICTION AND VENUE**

23 This Court has legal jurisdiction under 28 U.S.C., Sections 1331 and 1333(a)(3).

24 2.1 Plaintiff Darrick L. Hunter (“Hunter” and/or “plaintiff”), seeks declaratory relief
25 under 28 U.S.C., Sections 2201 and 2202. Also, Hunter seeks injunctive relief under 28 U.S.C.,
26 Sections 2283 and 2284.

2.2 The U.S. District Court for the Western District of Washington is an appropriate venue under 28 U.S.C., Section 1391(b)(2), because it is where the events giving rise to this complaint occurred.

III. PARTIES

3.1 Hunter is and was at all times mentioned herein a prisoner of the State of Washington in the custody of the Washington State Department of Corrections (“DOC”), and is currently confined at the Coyote Ridge Corrections Center, P.O. Box 769, Connell, Washington 99326-0769. At all times during the events giving rise to this Complaint, Hunter was confined at the Stafford Creek Corrections Center, 191 Constantine Way, Aberdeen, Washington 98520.

3.2 Defendant Charles N. Rohrer (“Rohrer” and/or “defendant”) was a sergeant at the Stafford Creek Corrections Center, 191 Constantine Way, Aberdeen, Washington 98520, during the time of the allegations in this complaint and was legally responsible for supervising custody staff and prisoners.

3.3 Defendant Timothy J. McCandless (“McCandless” and/or “defendant”) is a sergeant at the Stafford Creek Corrections Center, 191 Constantine Way, Aberdeen, Washington 98520 and is legally responsible for supervising custody staff and prisoners.

3.4 Defendant Margaret Gilbert (“Gilbert” and/or “defendant”) was the superintendent at the Stafford Creek Corrections Center, 191 Constantine Way, Aberdeen, Washington 98520, during the time of the allegations in this complaint and was legally responsible for supervising and overseeing prison staff, in addition to reviewing certain inmate grievances.

IV. EXHAUSTION OF REMEDIES

Hunter has exhausted the remedies available to him through the Prison Offender Grievance Program. Hunter also filed a notice of intent to sue with the Office of Risk Management, 1500 Jefferson Street, S.E., Olympia, Washington 98504-1466.

V. STATEMENT OF FACTS

2 5.1 Hunter, a black offender, was hired into the Washington State Department of
3 Corrections (“DOC”) Class III offender work training program at the Stafford Creek Corrections
4 Center (“SCCC”) in Aberdeen, Washington.

5 5.2 Mark Sherwood (“Sherwood”) was the manager of SCCC’s inmate custodial crew
6 in the engineering section in an area of SCCC known as the “HUB.”

7 5.3 Sherwood hired several black inmates onto the custodian crew. Sherwood hired
8 Hunter, as a member of SCCC's custodial shop. During the time of Hunter's employment on
9 the custodial crew, it consisted of approximately 3-5 inmates who were primarily black except,
10 for one white inmate crew member.

11 5.4 Rohrer and McCandless each asked Sherwood why he was hiring black offenders
12 onto his custodial crew on multiple occasions. For example, on or after March 20, 2015, Hunter
13 had witnessed Sherwood walk into the custodial shop visibly upset and agitated. While talking
14 on the phone, Hunter overheard Sherwood saying that “I was approached by Rohrer and
15 McCandless and they asked me ‘why are you hiring all these blacks on your crew?’”

16 5.5 Sherwood and his custodian crew were responsible for cleaning SCCC's
17 Extended Family Visitation ("EFV") housing units. SCCC used the EFVs as quarters for
18 inmates to participate in family visits, and each inmate and family member participating in one
19 of these visits was subject to strict security measures. After each visit, SCCC also had safety and
20 security procedures in place to ensure the EFV units were searched for contraband and damage
21 before offenders are permitted inside the units. Sherwood's custodial crew, including Hunter,
22 were responsible for cleaning the EFVs after these visits.

23 5.6 Under the guise of addressing former security breaches in the EFVs, Rohrer
24 created the strip search procedure that required Sherwood's custodial crew, including Hunter, to
25 be subject to strip searches after each time that they cleaned the EFVs. Rohrer created and
26 proposed the strip search procedure to his superior, and Rohrer then disseminated and directed

1 his staff corrections officers to begin carrying out the strip searches of the custodial crew.
 2 Rohrer himself strip searched the custodial crew on at least one occasion. Initially, Rohrer
 3 directed for the custodial crew to be strip searched after cleaning each EFV unit. In an email
 4 dated November 5, 2014, Rohrer stated that “[a]ll offenders will have to be stripped out after
 5 **each** unit has been cleaned.” None of Sherwood’s custodial crew members were implicated in
 6 the former security breaches that Rohrer’s strip search were purported to address.

7 5.7 SCCC had eight other Class III work training shops in the HUB’s engineering
 8 building (HVAC, electrical, bike, carpentry, lawn and garden, paint, metal and plumbing) that
 9 also worked in or around the EFVs. These crews consisted of mostly white and non-black
 10 offenders. In fact, Gilbert had concern about the racial and offender-classification makeup of the
 11 offenders working in the HUB area. Inmates also alleged that these shops were hiring only white
 12 offenders, and that Rohrer and McCandless didn’t want black inmates working in these
 13 positions.

14 5.8 The other work training shop crews working in the EFVs were not subject to strip
 15 searches after each time they worked in or around the EFVs. These crews consisted of similar
 16 supervisor to inmate ratios as Sherwood’s custodial crew, and the paint crew even had up to
 17 seven inmates on one occasion. These shops also made regular and frequent visits to the EFVs.
 18 But Rohrer only directed the custodial crew, consisting of primarily black inmates, including
 19 Hunter, to be subjected to routine strip searches after their work in the EFVs.

20 5.9 Rohrer’s directed strip searches of the custodial crew were not conducted
 21 consistent with State of Washington Department of Corrections Policy DOC 420.310. The strip
 22 searches were improperly carried out in the EFV units and involved correction officers’
 23 inappropriate statements and conduct during the strip searches. For example, on at least one
 24 occasion, corrections officer Roque Sumait (“Sumait”) made inappropriate comments to Hunter
 25 that surprised Sherwood. Additionally, it is unclear whether the corrections officers performing
 26 the searches at the direction of Rohrer properly recorded the date of the search, name of offender,

1 reason for the search, and names and gender of the employees conducting the search for the strip
2 searches of the custodial crew pursuant.

3 5.10 Rohrer's directed strip searches of the custodial crew were not based on Hunter's
4 or the custodian crew's actions and created an unreasonable and demeaning pattern. On or about
5 March 19, 2015, Sherwood, SCCC custodial shop supervisor, escorted Hunter, Eugene Tremble
6 ("Tremble"), and Jasper Harris ("Harris") (all black offenders) into EFV housing unit, for the
7 purpose of cleaning and restocking the units. Once Sherwood, Hunter, Harris and Tremble had
8 finished cleaning the EFV units, SCCC security staff subjected Hunter, Harris and Tremble to a
9 nude strip search as directed by Rohrer.

10 5.11 On or about April 16, 2015, April 23, 2015 and May 6, 2015, Sherwood's
11 custodial crew, including Hunter, was subjected to a nude strip search as directed by Rohrer once
12 they finished cleaning the EFV units. Hunter, Harris and Tremble complained to Sherwood
13 about how SCCC staff made them stand naked and eyeballed their genitals. SCCC security staff
14 made Hunter touch his genitals repeatedly during each search. Hunter, Harris and Tremble told
15 Sherwood that white offenders in other shops are allowed to work in the EFV units without being
16 subjected to a strip search and that they are being treated differently because they are black.

17 5.12 On or about July 1, 2015, September 2, 2015, September 3, 2015, and
18 September 30, 2015, Hunter was subjected to a nude strip search as directed by Rohrer upon
19 cleaning the EFV units.

20 5.13 On or about January 20, 2016, Hunter, Harris and Tremble told Sherwood that he
21 should not hire anymore black offenders on his crew to prevent Rohrer and McCandless from
22 harassing other black offenders. Sherwood told Hunter that "he was hiring people who are good
23 workers with good conduct, not because you are black."

24 5.14 Also on January 20, 2016, Hunter observed Rohrer being unprofessional with
25 Sherwood while Hunter and Sherwood were walking into U-Building. Sherwood ignored
26 Rohrer. That same day, Hunter was subjected to a nude strip as directed by Rohrer.

1 5.15 Rohrer's mistreatment of Hunter went beyond his order for the routine strip
 2 searches of Hunter and the custodial crew. On approximately January 20, 2016, Hunter went to
 3 lunch around 11:30 a.m. McCandless gave Hunter a regular lunch containing food items that
 4 Hunter was allergic to. Hunter has a severe food allergy to peanut and sunflower products and
 5 Hunter's health status reports on file in DOC's computer system indicates that Hunter is to be
 6 given a special diet meal. Rohrer overheard Hunter and McCandless discussing Hunter's diet,
 7 and Rohrer told Hunter that he needed to produce a copy of the health status report to obtain a
 8 special diet.

9 5.16 On or about January 22, 2016, Hunter produced a copy of his health status report
 10 to obtain a special diet meal, and Rohrer just laughed at Hunter. Rohrer ordered Hunter into the
 11 dining hall hallway after overhearing Hunter talk at the lunch table about Rohrer's constant
 12 mistreatment of Hunter. Rohrer suspended Hunter after Hunter had become upset when Rohrer
 13 was in Hunter's face telling Hunter to "shut up" and calling him "a liar" whenever Hunter tried
 14 to talk. McCandless was also present and just smiled and laughed at Hunter. Hunter told Rohrer
 15 that he would be filing a grievance and changing job positions. Rohrer responded by saying "I
 16 don't want your black ass out here anyway," and Hunter responded that he was going to sue
 17 Rohrer.

18 5.17 Also on January 22, 2016, Rohrer sent an email to Sherwood, Chris Idso ("Idso"),
 19 SCCC Facility Manager, and Martin Williams recounting his experience with Hunter in the
 20 dining hall, and noting that "He said that he will grieve me. . ."

21 5.18 Hunter reported the comment and incident to Mrs. Tera McEravy ("McEravy").
 22 McEravy told Hunter, later that day, that Hunter was to return to work on Monday, January 25,
 23 2016.

24 5.19 Rohrer and McCandless began a pattern of retaliatory conduct towards Hunter
 25 after Hunter threatened to file a grievance and sue Rohrer.

26

1 5.20 On or about January 26, 2016, Hunter was selected for a new position in SCCC's
2 correction industries (CI) chair shop program to gain vocational skills to qualify for work upon
3 release in the chair shop industry. Rohrer learned that Hunter was leaving custodial and
4 transferring to the CI chair shop and sent Sherwood an email falsely accusing Hunter of being
5 "out of bounds." Rohrer labeled Hunter a "security threat," and ordered Sherwood to suspend
6 Hunter.

7 5.21 Hunter immediately reported the incident to his counselors and the facility risk
8 management crew (FRMT), and then drafted a letter to Gilbert dated January 26, 2016, for
9 redress of his grievances against Rohrer. Hunter's letter to Gilbert recounted that he was being
10 harassed and targeted by Rohrer because of his race and described Rohrer's and McCandless'
11 questioning of Sherwood about hiring black inmates onto the custodial crew.

12 5.22 On January 29, 2016, Hunter also filed a racial discrimination grievance against
13 Rohrer and McCandless through SCCC's offender grievance program. The FRMT refused to
14 suspend or terminate Hunter from the Class III work program, and permitted Hunter to transfer
15 from the custodial crew to SCCC's correction industries Class II vocation chair shop program.
16 On February 1, 2016, Hunter began working in the chair shop.

17 5.23 Rohrer continued to retaliate against Hunter for filing his grievances.

18 5.24 On February 9, 2019, Dahne sent an email to Rohrer recounting Hunter's
19 allegations from the incident in the dining hall relating to his food allergies, and states "He said
20 on 1/26 when you suspended him you stated it was because he was a security risk. I can't find
21 any chronos in regard to either. His infraction history is good and work evaluations are above
22 average. Can you fill me in please?"

23 5.25 Also on February 9, 2016, Dennis Dahne ("Dahne") sent an email to Sherwood
24 asking "Mark, what can you tell me about this offendxers [sic] claims?" On February 11, in
25 response, Sherwood states "[a]ll I can say to this grievance is the following [] Yes, I have been
26

1 asked by both Rohr [sic] and McCandless ‘why am I only hiring blacks?’” [] Yes Sgt Rohr said
 2 he was a ‘security threat.’” Saying more would only be my opinion.”

3 5.26 On or about April 11, 2016, Keith Morgan (“Morgan”), CI chair shop supervisor,
 4 directed Hunter to report to a special visit with a DOC investigator. Morgan gave Hunter
 5 permission to take his lunch with him, because no one was sure if Hunter would return to work
 6 before lunch ended. Under personal escort and direct observation by SCCC staff (Officer Brule),
 7 Hunter took his lunch with him to the interview with the DOC investigator. Later that afternoon,
 8 Hunter observed Rohrer speaking to Morgan about Hunter. Rohrer directed Morgan to terminate
 9 Hunter from the chair shop program.

10 5.27 Hunter’s counselors (Robert Aleksinski (“Aleksinski”) and Ryan Denzer
 11 (“Denzer”)) had a meeting with Hunter, the FRMT, Sherwood and the grievance coordinator. It
 12 was determined that Rohrer and Morgan were prohibited from terminating Hunter, and that
 13 Hunter would be closely monitored. Also, it was agreed that returning Hunter to Sherwood’s
 14 custodial crew was in Hunter’s best interest to allow Sherwood direct observation and
 15 supervision of Hunter.

16 5.28 On April 12, 2016, Gilbert drafted a letter in response to Hunter’s letter dated
 17 January 26, 2016. Gilbert acknowledged Hunter’s allegations of racial discrimination and stated
 18 that she will request that Captain Frank Rivera (“Rivera”) and Idso look into the matter.

19 5.29 On April 16, 2016, Hunter filled out a retaliation grievance against Rohrer and
 20 Morgan. Rohrer and Morgan were upset that Hunter had filed a racial discrimination complaint
 21 against Rohrer.

22 5.30 On April 20, 2016, Rohrer sent an email to Sherwood, Denzer, Idso, and others,
 23 stating “I am not sure what kind of game this offender is trying to pull but this is the guy that
 24 worked for you before and was lying to staff and caught out of bounds several times in the spine
 25 building.” In response, Idso wrote back to Rohrer stating, “I am willing to have the discussion,
 26 but glancing at Hunter’s OMNI records, I see no infractions recently or any related to his HUB

1 employment. Further, I see no behavior log entries that would concern me about employing him
 2 in maintenance. . .”

3 5.31 On April 28, 2016, Rivera sent Gilbert a letter regarding Rohrer and Hunter.
 4 Rivera confirmed that Hunter had not been infracted since September 24, 2013.

5 5.32 On or about May 3, 2016, the grievance coordinator met with Hunter to dismiss
 6 the filing and details of Hunter’s two grievances, and it was agreed that both of Hunter’s
 7 grievances be assigned outside of the grievance office for investigation, monitoring, and
 8 resolution by Gilbert.

9 5.33 On May 19, 2016, Gilbert appointed Stella Jennings (“Jennings”) to investigate
 10 Hunter’s allegations of McCandless’ and Rohrer’s discriminatory behavior. Gilbert did not
 11 request that Jennings investigate Hunter’s alleged retaliation by either McCandless or Rohrer.

12 5.34 On May 31, 2016, Hunter recounted to Jennings that Rohrer would always have
 13 the custodial crew strip searched and that they felt like they were being targeted. Hunter
 14 recounts another incident involving targeting of the primarily-black custodial crew when
 15 McCandless talked to Sherwood regarding safety glasses being taken from the custodial crew.

16 5.35 On another incident of discriminatory targeting of Hunter and the custodial crew,
 17 McCandless confiscated Hunter’s fingerless gloves, when other inmates had similar gloves. On
 18 yet another incident related to racial targeting, Rohrer and Idso required only the custodial crew
 19 to wear high-visibility vests at all times. And when all work crews were required to wear the
 20 vests, and eventually stopped wearing them, the custodial crew was still required to wear them.

21 5.36 Sherwood expressed frustration regarding the targeting of the custodial crew and
 22 noticed the inconsistent standards set for the custodial crew in comparison to other work crews,
 23 and the fact that only the custodial crew was strip searched each time they worked in the EFVs.
 24 When Sherwood attempted to stand up for the custodial crew when they were disciplined for
 25 accepting food from a food manager, Rohrer asked him why he was sticking up for the inmates
 26 and told Sherwood that he needed to “back up the blue.”

1 5.37 On June 1, 2016, Jennings interviewed Harris. Harris explained to Jennings that
 2 the custodial crew is always stripped out in the EFVs' bathrooms, and that the custodial crew is
 3 the only crew that gets strip searched and that no other work crew is subject to the same strip
 4 searches.

5 5.38 Also on June 1, 2016, Idso recounted to Jennings that the custodial crew gets strip
 6 searched after they complete their work in the EFVs, that it had been occurring for about two or
 7 three years, and stated that "Rohrer was always pretty hard on the custodial crews that worked in
 8 the EFV's," and that the strip searches are done inside the EFVs.

9 5.39 In addition to Hunter's allegations of racial discrimination, Sherwood had
 10 expressed concerns to Gilbert regarding the comments made by Rohrer and McCandless, told her
 11 that only his custodial crew was strip searched every time they leave the EFVs, and that it
 12 appeared that Rohrer was after Hunter.

13 5.40 When reviewing Jennings' investigation, Gilbert reviewed at least Hunter's,
 14 Harris', and Idso's descriptions of the custodial crew being strip searched in the EFV area, in
 15 addition to Sherwood's accusations regarding strip searches of his crew, and Rohrer's targeting
 16 of Hunter. Gilbert also reviewed evidence demonstrating that Rohrer and McCandless racially
 17 discriminated and retaliated against Hunter and the custodial crew.

18 5.41 Gilbert was personally aware of a culture of racial discrimination involving the
 19 staff at SCCC.

20 5.42 Gilbert was personally involved and directly participated in Rohrer and
 21 McCandless' discriminatory and retaliatory conduct when she allowed Rohrer and McCandless'
 22 racial discrimination and retaliation directed at Hunter to continue even after receiving Hunter's
 23 January 26, 2016 letter, statements from Sherwood, and after reviewing Jennings' investigation,
 24 in addition to being personally aware of racial discrimination in SCCC's staff.

25 5.43 On and between June 2, 2016 and July 13, 2016, Hunter was subjected to a nude
 26 strip search at least five more times as directed by Rohrer. In addition, Sherwood's custodial

1 shop was searched and trashed at least four times by SCCC staff. Hunter's, Harris', and
 2 Tremble's work areas were trashed.

3 5.44 On June 24, 2016, corrections officer Neel Narayan filed an incident report
 4 describing Sherwood's statement to Hunter that "oh we don't want to send you there (referring to
 5 inmate Hunter #320996) because of Rohrer."

6 5.45 Four days later, on July 28, 2016, Gilbert sent McCandless and Rohrer each a
 7 "Notification of Findings." Gilbert stated that she had determined that Hunter's allegations of
 8 "staff misconduct" were unfounded. Gilbert did not send Hunter a final determination of
 9 Jennings' investigation into the matter.

10 5.46 Gilbert allowed the unreasonable and demeaning strip searches to continue after
 11 she learned of them from Jennings' investigation. On October 17, 2016, Captain Frank Rivera
 12 sent an email to Sherwood, Rohrer, McCandless, and others stating that "I have asked both Sgt.
 13 Rohrer and Sgt. McCandless to observe the strip search process in the EFV and give me their
 14 feedback on best practices . . . The goal is to ensure the crew is being strip searched 100% of the
 15 time and being logged 100% of the time. Please direct custody staff to ensure all strip searches
 16 are logged. I am not sure I am comfortable with strip searching the inmates in the EFV's . . ."

17 5.47 In addition to her duties as superintendent at SCCC, Gilbert also had a
 18 responsibilities with the Washington Department of Corrections for the Prison Rape Elimination
 19 Act.

20 5.48 Gilbert was personally involved and directly participated in the conduct of the
 21 strip searches of Hunter and the custodial crew by allowing for the unreasonable searches to
 22 continue through her subordinates Rohrer and others when she knew or should have known that
 23 conducting strip searches of Hunter and the custodial crew inside the EFVs was not appropriate,
 24 that strip searches should have always been recorded, and should have known about
 25 inappropriate conduct during the strip searches by her subordinates, including by corrections
 26 officer Sumait.

1 5.49 On or about October 27, 2016, Hunter contacted Gilbert through SCCC's kiosk,
 2 to find out whether Hunter's grievances had been investigated and resolved, but Gilbert did not
 3 respond to Hunter's kiosk message. Hunter met with the grievance coordinator, and told him
 4 that Hunter did not have a formal response by Gilbert to address the issues raised in both his
 5 grievances. Hunter requested that both his grievances be reassigned back to the grievance office
 6 for further investigation and response, or that Hunter be allowed to appeal his grievances to the
 7 next level. The grievance coordinator told Hunter that there was nothing further that could be
 8 done.

9 5.50 Hunter removed himself from working in any area where Rohrer, McCandless
 10 and Morgan were assigned and transferred to the Class III barbershop. Hunter remained a barber
 11 until he was transferred from SCCC on July 24, 2017.

12 **VI. CLAIMS FOR RELIEF**

13 **Count I – Claims Pursuant to 42 U.S.C § 1983**
 14 **Violations of the Fourteenth Amendment**

15 6.1 Hunter re-alleges each paragraph of this Complaint as if fully stated herein.

16 6.2 The actions of Rohrer and McCandless, as described more fully above, subjected
 17 Hunter to racial discrimination, which is unconstitutional under the equal protection clause of the
 18 Fourteenth Amendment to the United State Constitution.

19 6.3 The retaliatory actions of Rohrer and McCandless, as described more fully above,
 20 were a pretext for racial discrimination against Hunter, causing Hunter to be deprived of his
 21 rights under the equal protection of law clause of the Fourteenth Amendment to the United States
 22 Constitution.

23 6.4 There was no valid penological justification for Rohrer's direction to staff for the
 24 routine strip searches of only the primarily-black custodial crew and Hunter when leaving the
 25 EFVs, when other (non-black) inmates working in the same area and with similar access to the
 26 EFVs were not subjected to routine strip searches, as described more fully above, causing Hunter

1 to be deprived of his rights under the equal protection of law clause of the Fourteenth
2 Amendment to the United States Constitution.

3 6.5 Gilbert was personally involved and directly participated in Rohrer and
4 McCandless' actions as their supervisor by failing to take corrective action after learning of
5 Rohrer and McCandless' unlawful discriminatory conduct, including Rohrer's directive for
6 unreasonable strip searches of Hunter, by creating a policy or custom fostering this unlawful
7 conduct, and by her gross negligence in supervising her subordinates at SCCC, including Rohrer
8 and McCandless, who committed unlawful discriminatory acts causing the deprivation of
9 Hunter's constitutional rights.

10 6.6 Gilbert also failed to properly respond to and resolve Hunter's grievances by
11 performing a sufficient investigation regarding his grievances against Rohrer and McCandless
12 for their conduct that was offensive to human dignity and that shocks the conscience, and so
13 violated Hunter's liberty interest to be secure in his person under due process.

14 6.7 Rohrer, McCandless, and Gilbert were acting under color of law at the time of the
15 incidents mentioned in this Complaint, and the defendants' conduct was a proximate cause of
16 injuries and damages sustained by Hunter.

Count II – Claims Pursuant to 42 U.S.C. § 1983
Violations of the First Amendment and Fourteenth Amendment

18 6.8 Hunter re-alleges each paragraph of this Complaint as if fully stated herein.

20 6.9 The actions of Rohrer and McCandless against Hunter were done in retaliation for
21 Hunter exercising his right to the government for redress of grievances and were unconstitutional
22 under the First and Fourteenth Amendments to the United States Constitution.

23 6.10 Gilbert was personally involved and directly participated as supervisor in Rohrer
24 and McCandless' retaliatory actions by failing to take corrective action after learning of Rohrer
25 and McCandless' unlawful conduct, by creating a policy or custom fostering unlawful conduct,

1 and by her gross negligence in supervising Rohrer and McCandless at SCCC, who committed
2 unlawful acts and causing the deprivation of Hunter's constitutional rights.

3 6.11 The actions of Gilbert in failing to respond to and resolve Hunter's grievances
4 violated Hunter's right to due process of law, and is unconstitutional under the First and
5 Fourteenth Amendment to the United States Constitution.

6 6.12 Rohrer, McCandless, and Gilbert were acting under color of law at the time of the
7 incidents mentioned in this Complaint, and the defendants' conduct was a proximate cause of
8 injuries and damages sustained by Hunter.

**Count III – Claims Pursuant to 42 U.S.C. § 1983
Violations of the Fourth & Fourteenth Amendments**

6.13 Hunter re-alleges each paragraph of this Complaint as if fully stated herein.

6.14 There was no valid penological justification for the routine strip searches of the primarily-black custodial crew when leaving the EFVs, including Hunter, when other (non-black) inmates working in the same area and with similar access to the EFVs were not subjected to routine strip searches, as described more fully above.

6.15 As a direct result of the express decisions and direction of Rohrer, Hunter and the custodial crew were subjected unreasonable, demeaning, dehumanizing, and humiliating strip searches on a routine basis.

6.16 Gilbert was personally involved and directly participated as supervisor in Rohrer's unlawful actions by failing to take corrective action after learning of Rohrer's custodial crew strip search procedure, by creating a policy or custom fostering the unlawful strip searches, and by her gross negligence in supervising Rohrer at SCCC, who directed the unlawful strip searches of Hunter and the custodial crew and caused the deprivation of Hunter's constitutional rights.

6.17 Gilbert also failed to properly respond to and resolve Hunter's grievances by performing a sufficient investigation of Hunter's grievances against Rohrer for his directed strip

1 searches of the custodial crew and Hunter that are offensive to human dignity and that shock the
2 conscience, and so violated Hunter's liberty interest to be secure in his person under due process.

3 6.18 Rohrer and Gilbert were acting under color of law at the time of the incidents
4 mentioned in this Complaint, and the defendants' conduct was a proximate cause of injuries and
5 damages sustained by Hunter.

Count IV – Claims Pursuant to 42 U.S.C. § 1983 Violations of the Eight Amendment

6.19 Hunter re-alleges each paragraph of this Complaint as if fully stated herein.

6.20 There was no valid penological justification for conducting strips searches of only the custodial crew, including Hunter.

6.21 Rohrer subjected Hunter to punishment in violation of the Eighth Amendment by instituting the systematic, improperly conducted, strip searches of the custodial crew and Hunter, as described more fully above.

6.22 Rohrer directed and caused the strip searches to be conducted in a harassing manner that resulted in the humiliation of Hunter, as described more fully above.

6.23 Rohrer had supervisory responsibility to terminate the systematic strip searches of the custodial crew. As a direct result of the express decision and direction of Rohrer who was in charge of organizing and arranging the systematic strip searches of the custodian crew and Hunter, Hunter was subjected to unreasonable strip searches that were dehumanizing, demeaning, and humiliating.

6.24 Gilbert was personally involved and directly participated as supervisor in Rohrer's unlawful actions by failing to take corrective action after learning of Rohrer's custodial crew strip search procedure, by creating a policy or custom fostering the unlawful strip searches, and by her gross negligence in supervising Rohrer at SCCC, who directed the unlawful strip searches of Hunter and the custodial crew and caused the deprivation of Hunter's rights.

1 6.25 Rohrer and Gilbert were acting under color of law at the time of the incidents
2 mentioned in this Complaint, and the defendants' conduct was a proximate cause of injuries and
3 damages sustained by Hunter.

VII. DAMAGES

5 7.1 Hunter has suffered and continues to suffer serious mental and emotional anguish
6 in the form of shock, humiliation, withdrawal, harassment, dysphoric symptoms, and hatred.
7 Hunter lives in a constant state of fear of exposing his body to others, including staff, and in a
8 constant state of fear of being retaliated against for filing grievances to prison officials.

9 7.2 Hunter currently believes that the amount of damages sustained and claimed for
10 compensatory damages is \$200,000.00 for all defendants combined and punitive damages of
11 \$25,000.00 a piece for each defendant, for a total amount of \$300,000.00 dollars, and any such
12 presumed, nominal or other damages as are proven at trial.

VIII. PRAYER FOR RELIEF

14 8.1 Wherefore, Hunter's request for relief:

- (a) Declare that defendants violated plaintiff's rights.
- (b) Award both compensatory and punitive damages.
- (c) Award attorney fees pursuant to 42 U.S.C. Section 1988(b).
- (d) Award post-judgment interest pursuant to 28 U.S.C. Section 1961.
- (e) Award to Hunter all costs incurred.
- (f) Grant other relief the Court deems proper and just.

1
2 DATED this 2nd day of December, 2020.
3
4

/s/ Nicholas A. Valera

5 NICHOLAS A. VALERA, WSBA #54220

6 */s/ Brian W. Esler*

7 BRIAN W. ESLER, WSBA #22168

8 Miller Nash Graham & Dunn LLP

9 Pier 70 – 2801 Alaska Way Suite 300

10 Seattle, WA 98121

11 (206) 624-8300

12 nicholas.valera@millernash.com

13 brian.esler@millernash.com

14 Attorneys for Plaintiff

15

16

17

18

19

20

21

22

23

24

25

26

CERTIFICATE OF SERVICE

I hereby certify that on the date below, I served via email the foregoing document to the following:

Cassie B. vanRoojen
Katherine Joy Faber
ATTORNEY GENERAL'S OFFICE (40116-OLY)
PO BOX 40116
OLYMPIA, WA 98504-0116
360-586-1445
Email: CassieV@atg.wa.gov
Email: Katie.Faber@atg.wa.gov

Attorneys for Defendants

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 2nd day of December, 2020, at Seattle, Washington.

/s/ Kristin Martinez Clark
Kristin Martinez Clark

CERTIFICATE OF SERVICE - 1
(CASE NO. C18-5198-BHS-JRC)

MILLER NASH GRAHAM & DUNN LLP
ATTORNEYS AT LAW
T: 206.624.8300 | F: 206.340.9599
PIER 70
2801 ALASKAN WAY, SUITE 300
SEATTLE, WASHINGTON 98101